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6 **UNITED STATES DISTRICT COURT**
7
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT TACOMA**

10
11 **NANCY BAKER and FRED L. BAKER,**
12 husband and wife, and the marital
community composed thereof,

13 Plaintiff,

14 vs.

15 **TARGET CORPORATION,** a
16 Minnesota Corporation, corporation;
17 **JOHN and JANE DOES,** I through X,
18 inclusive,
Defendants.

NO.

COMPLAINT

DEMAND FOR JURY TRIAL

19
20 COME NOW Plaintiffs, NANCY BAKER, and FRED L. BAKER, by and through
21 their attorney of record, Jacqueline McMahon, and for cause of action against the Defendants
22 TARGET CORPORATION and Does 1-10, allege and state as follows in their Complaint:

23 **I. JURISDICTION AND VENUE**
24

25 1.1 This is an action against Defendant TARGET CORPORATION (TARGET) under Title
I of the Americans With Disabilities Act of 1990 ("ADA"), ADA §§ 101 to 108 (42 U.S.C.A.
§§ 12111 to 12117), for its unlawful employment practices on the basis of disability. Defendant
TARGET intentionally has refused to accommodate Plaintiff NANCY BAKER's disability, and

1 has constructively discharged her because of her disability, in violation of Plaintiffs' federally
2 protected rights. Plaintiff has been "constructively discharged" because she is on long-term
3 disability due to Target's refusal to accommodate her disability. Plaintiff's long-term disability
4 ends September 16, 2018. Ms. Baker "unemployable" and extended maximum disability
5 coverage for six additional months which ends September 16, 2018. Her disability pay only
6 covers sixty percent (60%) of her wages.
7

8 1.2 Jurisdiction of this Court is invoked pursuant to 28 U.S.C.A. §§ 1331 and 1343. This
9 action is authorized and instituted pursuant to Section 107(a) of the ADA, 42 U.S.C.A. § 12117
10 (a), which incorporates by reference Sections 706 (f) (1) and (3) of Title VII of the Civil Rights
11 Act of 1964 ("Title VII"), 42 U.S.C.A. § 2000e-5 (f) (1) and (3), pursuant to Section 102 of the
12 Civil Rights Act of 1991, 42 U.S.C.A. § 1981a.
13

14 1.3 This action is also authorized by and instituted under the Age Discrimination in
15 Employment Act of 1967, as amended, (the Act) 29 U.S.C.A. §§ 621 et seq. The second claim
16 of this complaint is based on 29 U.S.C.A. § 623 (a). The Court has jurisdiction to hear this
17 claim pursuant to 28 U.S.C.A. §§ 1331 and 1343.
18

19 1.4 This Court has jurisdiction over the claims brought pursuant to the Washington Law
20 Against Discrimination, RCW Ch. 49.60, pursuant to 28 U.S.C.A. § 1367.
21

22 1.5 The employment practices alleged herein to be unlawful were committed in Pierce
23 County, Washington and consequently venue in this judicial district is proper pursuant to 28
24 U.S.C.A. § 1391.
25

II. PARTIES

2.1 Plaintiffs, NANCY BAKER, and FRED L. BAKER, are citizens of the United States and
resided in and continue to reside in Pierce County, Washington at all times material to this action.

1 2.2 At all material times hereto, Plaintiff NANCY BAKER was and is a qualified individual
2 with a disability within the meaning of the Americans with Disabilities Act, 42 U.S.C. § 12111
3 (8), in that with reasonable accommodation she can perform the essential functions of the
4 employment positions that she held at TARGET, despite the fact she suffers from a disability in
5 the form of a knee injury suffered while at work which restricts her from standing for protracted
6 periods of time or from lifting heavy objects.
7

8 2.3 At all times material hereto, Plaintiff NANCY BAKER was and is a member of the class
9 of persons entitled to seek relief under ADEA, as she was and is 40 years of age or older.
10

11 2.4 TARGET is a corporation and at all times relevant hereto has done business in the State
12 of Washington and has continuously had and does now have at least 25 (25) employees.

13 2.5 At all relevant times, TARGET is an employer within the meaning of the ADA, as it has
14 continuously been engaged in an industry affecting commerce and has 25 or more employees
15 for each working day in each of 20 or more calendar weeks in the current or preceding year
16 within the meaning of Section 101 (5) of the ADA, 42 U.S.C.A. § 12111 (5), and Section 107
17 (7) of the ADA, 42 U.S.C.A. § 12117 (a), which incorporates by reference Sections 701 (g) and
18 (h) of Title VII, 42 U.S.C.A. § 2000e (g) and (h).
19

20 2.6 TARGET is an employer within the meaning of the Washington Law Against
21 Discrimination, RCW 49.60.040 (11).
22

23 2.7 On information and belief, Defendants John and Jane Does 1 through 10 are employers
24 within the meaning of the Washington Law Against Discrimination, RCW 49.60.040 (11). On
25 information and belief, said Defendants Doe acted in concert with TARGET and are jointly and
severally liable for the harm hereinafter alleged. When the true identities of said Defendants

1 Doe becomes known to Plaintiff, leave of court to amend this complaint accordingly will be
2 sought.

3 4 **III. PROCEDURAL STEPS**

5 3.1. Within 300 days after the alleged unlawful employment practice hereinafter set forth,
6 Plaintiffs filed a charge of disability discrimination with the Equal Employment Opportunity
7 Commission ("EEOC") satisfying the requirements of 42 U.S.C.A. § 2000e-5, and on June 11,
8 2018, less than 90 days prior to the filing of this Complaint, the EEOC issued to Plaintiffs a
9 Notice of Suit Rights with respect to Plaintiff's charges as set forth below.

10 11 **IV. FACTS**

12 4.1 Plaintiff Nancy Baker is a 71 year-old woman who resides in Pierce County Washington.

13 4.2 Ms. Baker began working as a cashier for Target on October 4, 2002.

14 4.3 From February 2008 until August 2016, Ms. Baker worked for TARGET as a Fitting
15 Room Team Member.

16 4.4 Ms. Baker returned to the position of cashier on August 28, 2016.

17 18 **Failure to accommodate disability**

19 4.5 Ms. Baker has a permanent disability which is known to TARGET. Specifically, Ms.
20 Baker suffers from an injury to her left knee she suffered in 2005 while at work at TARGET
21 which restricts her from standing for protracted periods of time or from lifting heavy objects.
22 MS. Baker sustained the injury when she tripped and fell on a rolled-up carpet at work.

23 4.6 When Plaintiff was released to return to work on April 8, 2005, it was with continued
24 monitored care by her physican and with substantial limitations and the need for
25 accommodation. One of the accommodation conditions for me to return to work was that

1 Plaintiff be provided a chair/stool so she could sit every two hours. Additionally, Ms. Baker's
2 left leg had to be elevated with knee support.

3 4.7 In May 2005, Plaintiff's release to work requirements were modified by her physician
4 as follows: a) could only stand for two hours and then required to sit for a period of time, then
5 stand another two hours and sit for a period of time, b) if Plaintiff's shifts were longer than four
6 hours, she would need to be allowed to sit for the remainder of the shift, c) a stool or chair was
7 required to be provided Plaintiff to allow her to change her position.
8

9 4.8 For most of Ms. Baker's employment, TARGET provided reasonable accommodation
10 of her disability until August, 2013. It was this month that Plaintiff's chair/stool was removed
11 by TARGET executives, specifically Krysta Kantrell and Shawn, without explanation or
12 discussion.
13

14 4.9 In September of 2013, Plaintiff again discussed with Ms. Kantrell her need for special
15 accommodations; specifically, her need for a stool/chair to be provided during her shifts. Ms.
16 Kantrell advised Plaintiff there was no accommodation paperwork in her file. Thereafter, Ms.
17 Kantrell retaliated further by only scheduling Plaintiff for four (4) hour shifts to avoid any need
18 to accommodate. Ms. Kantrell told Plaintiff the stool/ chair was not "Target Brand" when
19 discussing her refusal to accommodate Plaintiff. Ms. Kantrell and TARGET executives knew
20 that cutting Plaintiff's hours would leave her with less than the 20 hours weekly averaged over
21 the year, to ensure Ms. Baker could keep her medical and dental insurance and long-term
22 disability coverage. Moreover, work shifts in the fitting room area were a minimum of 4.75
23 hours each. Reducing Plaintiff's scheduled shifts to under four hours meant she would no longer
24 be able to work in the fitting room where she could be accommodated.
25

1 4.10 On or around November 1, 2013, Ms. Baker's physician identified, on a Labor and
2 Industry Form provided to TARGET, the restrictions and accommodations she needed. One of
3 the accommodations her physician set forth was her need for a chair or stool. Additionally,
4 Plaintiff was prohibited from doing any activity at TARGET that required her to do any kneeling
5 or bending.
6

7 4.11 The Labor and Industry Form and accommodation letter were ignored by TARGET and
8 Ms. Baker's need for accommodation was denied.
9

10 4.12 Ms. Baker was chastised by Executive Team Leads (hereinafter "ETLs") Krystal
11 Kantrell and "Shawn" as being "not Target Brand" due to her need for accommodation with a
12 chair or stool. Additionally, when Ms. Kantrell reviewed Plaintiff's accommodation paperwork,
13 she was told that the chair would not be returned regardless of any need for accommodation.
14

15 4.13 In April 2014, TARGET was again made aware of Ms. Baker's need to be
16 accommodated and again her request for accommodation was denied. Ms. Baker advised Ms.
17 Chelsey Becker, TARGET's Store Executive Team Lead (hereinafter "STL"), which is also
18 synonymous to store manager, at the Puyallup store (i.e. Store No 0342), she needed to have a chair
19 or stool provided to her. Ms. Becker responded she would look into it and get back to Ms. Baker.
20 Ms. Becker never responded to Ms. Baker regarding her need for accommodation. Ms. Becker
21 left TARGET's Puyallup store in September, 2014.
22

23 4.14 During this same period of time, Plaintiff had a conversation with Ms. Becker regarding
24 her hours of work. Plaintiff again expressed her concern that if she was only scheduled for four
25 hour shifts, she would not be able to satisfy the 20 hour per week annual minimum needed to
receive employee benefits. Plaintiff told Ms. Becker she could work longer shifts if she was
provided accommodation. Ms. Becker refused to accommodate Plaintiff because she felt she

1 had to “treat everyone the same”. Ms. Baker was only being scheduled to work 3-4 days and
2 4:45 hour shifts; yet other employees who did not require accommodations were being scheduled
3 5 days per week.

4
5 4.15 In October 2014, when a new Human Resources Manager replaced Ms. Kantrell, Ms.
6 Baker again requested to be accommodated. Plaintiff was advised by the new Human Resources
7 Manager that there was no accommodation paperwork in her personnel file. Plaintiff was further
8 told by TARGET executives, that she was not covered under the Americans with Disabilities Act
9 (hereinafter “ADA”).
10

11 4.16 On or around November 7, 2014, a stool was finally provided in the fitting room, but it
12 was removed in December, 2015. Plaintiff was again signaled out by TARGET executives as
13 being “not Target Brand”. She was ridiculed and subjected to demeaning comments related to
14 her need to be accommodated and her hours were cut.

15
16 4.17 In a conference with ETL Erin Crawford on June 25, 2016, Ms. Baker explained her
17 concern she was getting fewer hours than other team members. Ms. Crawford told Plaintiff the
18 reason was because Ms. Baker had less availability. Ms. Baker replied she had less availability
19 due to her disability restrictions. Ms. Crawford then told Ms. Baker she was part-time due to her
20 disability and some employees are sole supporters and need 30 hours, so the hours were being
21 given to those employees as opposed to employees who had partners at home. Ms. Crawford
22 also stated because Ms. Baker could not work past 7:00 p.m., she was not being scheduled as
23 many hours. Ms. Baker explained the 7:00 p.m. restriction was set by her physician.
24
25

4.18 On July 14, 2016, Ms. Crawford again called Plaintiff into her office and demanded she
provide an updated TARGET Accommodation Questionnaire. Ms. Baker was given two weeks
to return it. Ms. Crawford showed Plaintiff the 2014 questionnaire on file and asked if it was

1 correct. Ms. Baker replied it most likely was. Ms. Crawford then gave Plaintiff a copy of the
2 Fitting Room Core Roles and advised Plaintiff she has spoken to District HR Jill Kranz about
3 her. Ms. Baker was extremely concerned her paperwork concerning her ADA accommodation
4 was repeatedly being lost and she was not receiving accommodated as set forth by her physician.
5

6 4.19 On August 2, 2016, Plaintiff returned with an updated accommodation questionnaire
7 that was similar to the one she had provided to TARGET in October 2014. Ms. Baker met again
8 with Ms. Crawford on that same date. Ms. Crawford reviewed the information she had
9 previously discussed with Plaintiff and she reviewed the Core Roles for the fitting rooms. Ms.
10 Crawford informed Plaintiff that she saw no reason why Ms. Baker could not continue in the
11 fitting room and she assured Plaintiff the documents would be sent to District HR Jill Kranz for
12 approval.
13

14 4.20 Ms. Baker then went on a two-week vacation. During that time, Ms. Crawford left
15 TARGET to find employment elsewhere and gave Plaintiff's file to Ms. Becker.
16

17 4.21 On August 2016, Ms. Becker asked Plaintiff to come to her office. STL in training,
18 Crystal Rausch was also present at that meeting. Ms. Becker inquired how Ms. Baker picked up
19 clothing from the dressing room. Ms. Baker replied she picked up items on the bench and then
20 would sit down and remove merchandise from the floor. Ms. Becker also inquired how Plaintiff
21 would put merchandise on the sales floor. Ms. Baker replied she does not place merchandise on
22 the lower shelves because of her disability. Ms. Rausch commented, it was bending with the
23 knees—like squatting Ms. Baker could not do, and Plaintiff agreed.
24

25 4.22 At the meeting on August 23, 2016, Ms. Becker informed Plaintiff she was to being
moved to cashier to keep her "safe", as the fitting room duties now included zone work in the
shoe area. Ms. Baker was not given any option but to work as cashier.

1 4.23 Ms. Becker insisted Ms. Baker would be better off as cashier. Ms. Baker explained that
2 working as cashier would cause her great pain and would risk further injury. Plaintiff went on
3 to explain that for eight years (on and off) she had been accommodated at the fitting table and
4 could perform the tasks adequately, with modification, due to her disability. Ms. Baker never
5 said she could not bend down to fold clothes or put merchandise away because with
6 accommodation, she could perform such tasks. Ms. Baker further explained the cashier role did
7 not allow for enough movement, and she would be forced to spend too much time being
8 stationary.
9

10
11 4.24 Ms. Baker was apprehensive about the change of position to cashier. The cashier
12 position entailed constant lifting and some bending whereas working in the fitting room, Plaintiff
13 was not required to do these repetitive tasks and in fact, had been advised by her physician not
14 to do so because of her restrictions. Moreover, the stool given to Plaintiff in the cashier position
15 was not adequate to sit in and accomplish the checkout process, but instead caused further injury.
16 Ms. Baker was forced to either take the cashier position and risk additional injury or face
17 termination from TARGET employment.
18

19 4.25 On August 30, 2016, Ms. Baker began her first shift as a cashier. She was given a stool
20 that was inadequate to perform all tasks in a single transaction, due to the height of the stool and
21 the distance between the conveyor belt, bag area and the register. Additionally, some items
22 needed to be scanned in the cart, which could not be done if Ms. Baker was seated. It was literally
23 impossible for Plaintiff to sit and reach the register, the conveyor belt, place merchandise in bags
24 and lift them onto the counter, to satisfy her duties as cashier. Moreover, when Ms. Baker was
25 moved to cashier, no one went over the Core Roles considering her need for accommodation as
a cashier.

1 4.26 Ms. Baker spoke to Robin Verge in the cashier department regarding her concerns
2 working as a cashier and her documented disability. Ms. Verge told Ms. Baker she could not
3 help her. She advised Plaintiff to speak to HR but the individual to whom she needed to speak
4 was on vacation.
5

6 4.27 Ms. Baker worked two shifts as a cashier. It was extremely painful for Plaintiff to do
7 so, given the configuration of the cashier lanes and because the shifts were either just under or
8 more than six hours long, meaning Plaintiff would need to sit 60-90 minutes per shift per her
9 documented accommodation need. Additionally, because there were typically only two cashiers
10 scheduled during a shift, Plaintiff could only sit for 10-20 seconds at a time, essentially requiring
11 her to do squats throughout her shift. When Plaintiff attempted to sit the 30 minutes to 1.5 hours
12 as directed by her physician to avoid further injury to her knees, she was not allowed to do so, in
13 violation of her documented need for accommodation set forth by Plaintiff's physician and on
14 her ADA accommodation form. In fact, Ms. Baker was told she was not able to move away from
15 the register to walk. The only time she was allowed to move away from her register was when
16 there were no guest in her line. When Plaintiff spoke to TARGET management explaining she
17 was unable to work as cashier due to the constant repetition from sitting on her stool to standing
18 to operate the cash register, TARGET refused to accomodate. Plaintiff was in constant daily
19 pain each day she was forced to work as cashier. TARGET management had no regard for Ms.
20 Baker's requests, her need for accommodation or the incresed pain she was now in being forced
21 to perform cashier duties.
22
23
24
25

4.28 In September 2016, ETL Michael Bowlden learned that Plaintiff was being asked by
other employees about TARGET'S refusal to accommodate her disability. ETL Mr. Bowlden
approached Ms. Baker's friends and co-workers at the store. Mr. Bowlden falsely advised

1 Plaintiff's co-workers that Ms. Baker had given him their names as individuals to whom she had
2 spoken regarding her accommodation needs. Mr. Bowlden demanded Ms. Baker stop talking to
3 other employees about her situation. Plaintiff realized she was being watched by TARGET
4 executives and team leads and she was essentially unable to even talk casually to acquaintances
5 in the store.
6

7 4.29 Additionally, in mid-September 2016, Ms. Baker was confronted by HR ETL Chelsey
8 Becker and another TARGET employee, "Jen", while Ms. Baker was engaged in checking out
9 guests. Jen aggressively entered the cashier area and physically bumped into Plaintiff. Ms.
10 Becker told Plaintiff, Jen would be taking over the cashier spot, so Ms. Becker could speak to
11 Plaintiff. Ms. Baker was embarrassed and humiliated, as there were guests in line who observed
12 the aggressive behavior of Jen. Ms. Baker felt as if she was being singled out for something but
13 had done nothing wrong.
14

15 4.30 Ms. Becker had Plaintiff follow her approximately 15 feet from her register to the front
16 of the store where other guests and TARGET employees were present. Ms. Becker confronted
17 Plaintiff regarding her reluctance to meet with her and two other TARGET managers; however,
18 any meeting would have been premature as Plaintiff did not yet have the letter from her physician
19 defining her disability, which TARGET had requested, and the need to be accommodated. Ms.
20 Becker was extremely agitated and was speaking to Ms. Baker in a raised and demeaning voice
21 in the front of the store. Ms. Becker was discussing her August meeting with Plaintiff when she
22 and Ms. Kantrell coerced Plaintiff into accepting the cashier position.
23
24
25

4.31 When Plaintiff told Ms. Becker she did not recall the conversation during the August
meeting as being as what Ms. Becker was reiterating, Ms. Becker angrily asked Ms. Baker,
"where do you see yourself at TARGET going forward?"

1 4.32 The manner and tone in which Ms. Becker asked this question left Plaintiff with the
2 understanding that Ms. Becker wanted her out of TARGET. Ms. Becker intimated Plaintiff was
3 not able to work at TARGET. Ms. Baker responded by stating she saw herself working in the
4 fitting room. Thereupon Ms. Becker ended the conversation and walked away abruptly. After
5 this incident, there was no question in Plaintiff's mind that because of her age and disability, she
6 no longer "*fit in*" at TARGET.
7

8 4.33 In September 2016, Ms. Baker began telling GSTL Robyn Verge, ETL Michael
9 Bowlden and interim ERL-HR Vin Hinguyen, she was not being accommodated as a cashier and
10 expressed her desire to return to the fitting room where her disability could be accommodated.
11 Ms. Baker further explained to these individuals that the cashier position did not allow her to be
12 as mobile as she needed to be per her accommodation requests.
13

14 4.34 Interim HR Vin Hinguyen, informed Plaintiff he was required to discuss Plaintiff's
15 request with District HR Jill Kranz. He did so and Ms. Kranz discussed Plaintiff's
16 accommodation request with TARGET corporate. TARGET corporate demanded a clarification
17 letter from Ms. Baker's physician regarding whether she could work five hours or more. HR Vin
18 Hinguyen thereafter advised Plaintiff there were no ADA papers or any other documentation for
19 him to verify this information despite the fact Plaintiff had provided TARGET an updated
20 accommodation questionnaire on July 29, 2016. Mr. Hinguyen stated he could not move Plaintiff
21 to another position without the clarification letter and TARGET corporation approval. Mrs.
22 Baker was told by TARGET managers that until she received word from a TARGET corporate,
23 she was ordered to remain working as a cashier.
24
25

 4.35 On October 13, 2016, Ms. Becker asked Plaintiff if she had the updated accommodation
form. Ms. Baker informed Ms. Becker she did. Ms. Becker asked if Ms. Faker would be at the

1 store on Monday, October 17, to which Ms. Baker said yes. Neither Ms. Becker nor any other
2 TARGET management scheduled any meeting with Plaintiff.

3
4 4.36 Later in the morning of October 13, 2016 Ms. Baker was in so much pain from
5 attempting to work at the cashier position she had to leave work early. Ms. Baker informed
6 GSTL Ms. Verge she was in severe pain and needed to leave. Ms. Verge told Plaintiff she could
7 leave her shift early.

8
9 4.37 Before leaving work on October 13, 2016, Plaintiff provided the clarification letter to
10 HR clerical assistant Alli.

11
12 4.38 On October 13, 2016, Ms. Baker saw her physician who advised her that she needed to
13 go on medical leave immediately. Ms. Baker went on medical leave on or about October 13,
14 2016 and continuing to the present.

15
16 4.39 Target's refusal to accommodate Plaintiff in the cashier position resulted in ongoing
17 injury and further damage. The stool provided was too short to be used in the cashier position.
18 As a result, Ms. Baker was required to constantly do squats as she was forced to move up and
19 down (rather than remain stationary while seated), to move items from the conveyor belt into
20 sacks and then up on to the counter or in the cart for guests. As a result of this repetitive activity
21 Ms. Baker suffered further injury with buckling and pain to her left knee and new injury to her
22 right Knee with associated pain and buckling. Ms. Baker was not allowed to take additional
23 breaks as set forth in her accommodation form or walk as needed.

24
25 4.40 Moreover, TARGET'S failure to accommodate was demonstrated in management's
requirement that if Plaintiff needed to walk because of her disability, she would be required to
fill coolers, which required heavy lifting and bending which she was medically prohibited from
doing. The distance from the cashier position to the coolers did not provide Ms. Baker the

1 amount of walking medically needed. TARGET was aware of these limitations as they were set
2 forth in the ADA accommodation form filled out by Ms. Baker's physician.

3 4.41 Ms. Baker was informed by HR clerical worker Lucy that she had been assigned to the
4 cashier position permanently and no longer was given the option of moving back to the fitting
5 room. The actions of TARGET in failing to accommodate Plaintiff and TARGET executives
6 discrimination against her, cause Ms. Baker to suffer additional pain and physical injury.
7

8 4.42 From the time she started working for TARGET on October 4, 2002, until her worksite
9 injury in March 2005, Plaintiff received performance reviews that were satisfactory and above
10 satisfactory. After her injury, and after TARGET acknowledged Ms. Baker's need for light duty
11 and accommodation, Plaintiff has consistently received performance evaluations marking her as
12 inconsistently effective. Ms. Baker believes she has been given consistently poor annual reviews
13 after her injury as part of TARGET's plan to terminate her, based upon her age and disability.
14 The poor annual reviews also enabled TARGET to give Ms. Baker little, if any, pay raise.
15
16

17 **Age Discrimination**

18 4.43 Ms. Baker was over 40 years of age at the time of her constructive discharge in
19 October 2016.
20

21 4.44 Ms. Baker was employed at TARGET continuously for 14 years.

22 4.45 Beginning in 2015 through October 2016, Ms. Baker was taunted by various team
23 members with taunts such as "when are you going to retire?" And if she was limping due to her
24 knee, fellow employees would tell Ms. Baker she should retire.
25

4.46 In May 2016, Ms. Becker began setting arbitrary times for Ms. Baker to complete
various tasks, knowing she was slower in her ability to complete those task due to her disability.
Other employees in the fitting room area were not subject to such arbitrary timelines.

1 4.47 In the cashier position, after her 2005 injury, Ms. Baker was confronted with a hostile
2 environment. Team members were frustrated with Ms. Baker's need for accommodation. Ms.
3 Baker felt targeted in the position of cashier. The mid-September 2016, confrontation involving
4 Ms. Baker, her supervisor HR ETL Chelsey Becker, and another TARGET employee, Jen, is
5 but one instance of that hostile environment.
6

7 **V. CLAIMS FOR RELIEF**

8 **CLAIM 1-AMERICANS WITH DISABILITIES ACT**

9
10 5.1 Plaintiff NANCY BAKER incorporates and realleges paragraphs 1.1 through 4.47
11 above as though entirely set forth.

12 5.2 Plaintiff NANCY BAKER suffers from a physical impairment that limits her in the
13 major life activity of working. Accordingly, she is disabled within the meaning of the ADA.

14 5.3 Plaintiff NANCY BAKER could have performed her job, for which she was qualified,
15 with reasonable accommodation from TARGET, but that accommodation was unlawfully
16 denied to her.
17

18 5.4 The acts alleged above constitute unlawful employment practices in violation of ADA
19 §§ 102 (a), 102 (b) (1) and 102 (b) (5) (B), 42 U.S.C.A. §§ 12112 (a), 12112 (b) (1) and 12112
20 (b) (5) (B). These practices include, but are not limited to, substantially reducing the number of
21 hours Plaintiff NANCY BAKER worked, refusing to accommodate her disability, subjecting
22 her to a hostile work environment, retaliating against her for her requests for accommodation,
23 and constructively terminating her employment, even though she was able to perform the
24 essential functions of her position with reasonable accommodation, because of her disability
25 and the need to make reasonable accommodations to her possible future physical impairments.

1 5.5 All conduct alleged above occurred during a legally cognizable time period at
2 TARGET'S Puyallup store, number 0342.

3 5.6 TARGET's employment practices, as alleged above, deprived Plaintiff NANCY
4 BAKER of equal employment opportunities and otherwise adversely affected her status as an
5 employee and were the result of her disability.
6

7 5.7 As a proximate result of TARGET'S discrimination against Plaintiff NANCY BAKER
8 on the basis of her disability, she has suffered and continues to suffer substantial losses,
9 including the loss of past and future earnings, deferred compensation, decrease in pension
10 accumulation, 401k restrictions, and other employment benefits.
11

12 5.8 Plaintiff NANCY BAKER also has and continues to suffer severe mental and
13 emotional distress as a proximate result of TARGET'S discrimination against Plaintiff
14 NANCY BAKER on the basis of her disability.
15

16 5.9 The extent and amount of Plaintiff NANCY BAKER's monetary damages is presently
17 unknown, but to be made more certain at the time of trial.

18 5.10 TARGET engaged in the above-described conduct against Plaintiff NANCY BAKER
19 with malice and in reckless disregard of her federally protected rights.
20

21 **CLAIM 2-AGE DISCRIMINATION IN EMPLOYMENT ACT**

22 6.1 Plaintiff NANCY BAKER incorporates and realleges paragraphs 1.1 through 5.10
23 above as though entirely set forth.

24 6.2 The acts alleged above constitute unlawful employment practices in violation of ADEA
25 § 623 (a) (1), (d). These practices include, but are not limited to, substantially reducing the
number of hours Plaintiff NANCY BAKER worked, transferring her from the fitting room,
where she could perform all required tasks with reasonable accommodation, to a cashier

1 position where she could not perform all required tasks, subjecting her to a hostile work
2 environment, retaliating against her for her requests for accommodation, and constructively
3 terminating her employment, even though she was able to perform the essential functions of
4 her position with reasonable accommodation, because of her age.
5

6 6.3 Plaintiff NANCY BAKER's age was the motivating factor in TARGET's actions
7 toward her.

8 6.4 Plaintiff NANCY BAKER had been engaged in protected activities including seeking
9 an accommodation for a disability, complaining about TARGET'S unlawful practices, such as
10 denying her reasonable accommodation for her position in the fitting room and transferring her
11 from the fitting room, where she could perform all required tasks with reasonable
12 accommodation, to a cashier position where she could not perform all required tasks without
13 further injury..
14

15 6.5 As a proximate result of the wrongful conduct of TARGET, Plaintiff NANCY BAKER
16 has suffered and continues to sustain substantial losses in earnings and other employment
17 benefits in an amount to be determined at trial according to proof.
18

19 6.6 In doing the acts alleged in this complaint, TARGET acted with oppression, fraud, and
20 malice, and in conscious disregard of Plaintiff NANCY BAKER's rights and Plaintiff is
21 therefore entitled to punitive damages in an amount to be determined at trial according to proof
22 and liquidated damages pursuant to 29 U.S.C.A. § 626 (b) in an amount to be determined at
23 trial.
24
25

THIRD CLAIM-VIOLATION OF WASHINGTON LAW

AGAINST DISCRIMINATION

(Against all defendants)

1 7.1 Plaintiff incorporates and realleges paragraphs 1.1 through 6.6, above.

2 7.2 Each defendant named above is an “employer” as defined in the Washington Law
3 Against Discrimination (WLAD), RCW 49.60.040 (11).
4

5 7.3 At the time of his constructive discharge from employment in October 2016, plaintiff
6 NANCY BAKER was 69 years old.

7 7.4 Defendants’ actions alleged above constitute unlawful employment practices in
8 violation of RCW 49.60.030 (1) (a) and RCW 49.60.180 (2), (3). These practices include, but
9 are not limited to, substantially reducing the number of hours Plaintiff NANCY BAKER
10 worked, refusing to accommodate her disability, subjecting her to a hostile work environment,
11 retaliating against her for her requests for accommodation, and constructively terminating her
12 employment, even though she was able to perform the essential functions of her position with
13 reasonable accommodation, because of her disability and the need to make reasonable
14 accommodations to her possible future physical impairments.
15
16

17 7.5 There are no legitimate reasons for Plaintiff NANCY BAKER’S constructive discharge
18 after 14 years of satisfactory job performance. The reasons offered by defendants to justify
19 their actions are simply a pretext to conceal their intent to intentionally terminate her for illegal
20 discriminatory reasons based on her disability and her age.
21

22 7.6 Defendants constructively discharged Plaintiff NANCY BAKER from employment
23 because of her disability and her age in violation of RCW 49.60.030 (1) (a) and RCW
24 49.60.180 (2), (3).
25

7.7 As a direct, natural, proximate and foreseeable result of the intentional actions of
defendants, Plaintiff NANCY BAKER has suffered past and future pecuniary losses, including,

1 but not limited to past and future wage loss, loss of employment benefits, and emotional
2 distress.

3 WHEREFORE, plaintiff prays judgment as follows:
4

5 8.1 Awarding Plaintiff NANCY BAKER reinstatement to her former position in the fitting
6 room with TARGET with full benefits and wage increase or, in lieu of reinstatement, awarding
7 her lost wages, future wage loss and lost benefits, in amounts to be established at trial.

8 8.2 Alternatively, awarding Plaintiff NANCY BAKER special damages for lost wages,
9 benefits, future wage loss, and out of pocket expenses, (including medical expenses), in
10 amounts to be established at trial.

11 8.3 Awarding Plaintiff NANCY BAKER general damages for loss of enjoyment of life,
12 pain and suffering, injury to reputation, mental anguish, emotional distress, and humiliation;
13

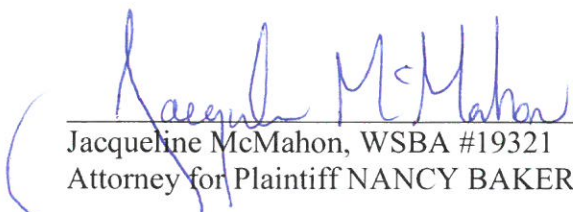
14 8.4 Awarding Plaintiff NANCY BAKER prejudgment interest in an amount to be proved
15 at trial;
16

17 8.5 Awarding Plaintiff NANCY BAKER compensation for any tax or tax penalty
18 associated with a recovery;

19 8.6 Awarding Plaintiff NANCY BAKER reasonable attorney's fees and costs pursuant to
20 42 USC § 12205, 29 U.S.C. § 626 (b) and 29 USC § 216 (b), and RCW 49.60.030 (2), and
21 RCW 49.48.030.
22

23 8.7 Whatever further and additional relief the court shall deem just and equitable.

24 Dated this 10th day of September 2018.
25


Jacqueline McMahon, WSBA #19321
Attorney for Plaintiff NANCY BAKER